

910 KAR 1:150. Program and certification requirements for the Private Pay Adult Day and Alzheimer's Respite Program.

RELATES TO: KRS Chapter 13B, 194A.060(2), 194A.700(1), (2), (10), 205.010(15), 205.201, 205.455(12), 205.950, 205.955, 209.030(2), (3), 216.787

STATUTORY AUTHORITY: KRS 194A.050(1), 205.950

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth; to operate the programs and fulfill the responsibilities vested in the cabinet; to implement programs mandated by federal law; to qualify for the receipt of federal funds; and to cooperate with other state and federal agencies for the proper administrative of the cabinet and its programs. KRS 205.950 requires the Cabinet for Health and Family Services to promulgate administrative regulations to establish health, safety, and treatment requirements for certified adult day-care centers and to establish criteria for their certification. This administrative regulation establishes program and certification requirements for the Private Pay Adult Day and Alzheimer's Respite Program.

Section 1. Definitions. (1) "Activities of daily living" is defined by KRS 194A.700(1).

(2) "Adult day-care center" is defined by KRS 205.010(15).

(3) "Adult day-care services" means a supportive and therapeutic social program of supervision and care:

(a) Provided to an eligible adult as defined in Section 2 of this administrative regulation;

(b) During a part of the day, but for less than twenty-four (24) hours; and

(c) For:

1. Assistance with self-administration of medication;

2. Personal care services;

3. Self-care training;

4. Social activities; and

5. Recreational opportunities.

(4) "Adult day health services" means a licensed program to provide continuous supervision of the client's medical and health needs.

(5) "Alzheimer's disease or related dementing diseases" means neurological diseases causing gradual and irreversible impairment of intellectual functioning of a sufficient severity to interfere with an individual's daily activities.

(6) "Assessment" means the collection of information and evaluation about a person's situation and functioning which identifies needs and resources so that a comprehensive plan of care may be developed.

(7) "Assistance with self-administration of medication" is defined by KRS 194A.700(2).

(8) "Identifiable space" means space set apart by visible barriers from other activities within the setting.

(9) "Licensed adult day health center" means a program licensed by the Kentucky Cabinet for Health and Family Services in accordance with 902 KAR 20:066.

(10) "Nutrient dense snack" means a snack that contains a high proportion of nutrients in comparison to the number of calories.

(11) "Personal care services" means activities to help participants achieve and maintain good personal hygiene, including assistance with walking and activities of daily living.

(12) "Plan of care" means a written guide of action:

(a) Developed and agreed upon by the:

1. Client or client's representative; and
2. The private pay adult day-care center;
- (b) Based upon the client's needs, goals, and resources; and
- (c) Including services to meet identified goals and achieve objectives.
- (13) "Private pay" means funding solely from sources other than state or federal funding.
- (14) "Reassessment" means the formal reevaluation of the participant's situation and functioning and of the services delivered to identify changes that may have occurred since the last assessment.
- (15) "Respite" is defined by KRS 205.455(12).

Section 2. Eligibility. To participate in the Private Pay Adult Day and Alzheimer's Respite Program, an individual shall be:

- (1)(a) Able to respond and share in program activities without creating health and safety risks to self or others; and
- (b) An age according to the private pay adult day-care center's policies and procedures but at least eighteen (18) years of age; and
- (2) The private pay adult day-care center shall not discriminate eligibility based on a person's race, sex, age, religion, national origin or disability.

Section 3. Assessment and Reassessment. (1) The private pay adult day-care center shall:

- (a) Assess an applicant for eligibility and need of services;
- (b) Develop a plan of care for each eligible applicant:
 1. Using a completed assessment; and
 2. With participant involvement to the fullest extent of the participant's abilities; and
- (c) Refer the client for other needed services identified by the assessment, if applicable.
- (2) The program director or designee shall arrange for or conduct a formal reassessment annually or as needed based on change in a client's eligibility or service needs.

Section 4. Private Pay Adult Day-Care Center Fees. A private pay adult day-care center shall provide a client or client's representative: (1) Written documentation before acceptance to the program of:

- (a) Hourly, weekly, or monthly fees for services; and
- (b) A change in fees within thirty (30) days in advance of the change; and
- (2) Policies and procedures for termination and refund of services.

Section 5. Termination of Services. (1) A private pay adult day-care center or client may decide to terminate adult day-care and Alzheimer's respite services.

(2) If Private Pay Adult Day and Alzheimer's Respite Program services are terminated, the adult day-care center shall:

- (a) Notify the client or client's representative:
 1. In writing; and
 2. Within five (5) business days of the action taken; and
- (b) Assist in making a referral to another agency, if applicable.
- (3) Upon discovery of a client being ineligible for services due to health or safety risks as specified in Section 2(1) of this administrative regulation, the private pay adult day-care center shall:
 - (a) Provide notification in writing of termination of services to a client and client's representative; and
 - (b) Assist in making a referral to another agency if requested.

Section 6. Private Pay Adult Day-Care Center Responsibilities. (1) The private pay adult day-care center shall meet the following general requirements:

- (a) Assure that program staff treat the client and caregiver in a respectful and dignified manner, involving them in decisions regarding the delivery of services;
- (b) Assure that services are provided in a safe and consistent manner;
- (c) Maintain a written job description for each paid staff and volunteer position involved in direct service delivery;
- (d) Develop and maintain written personnel policies for each job classification;
- (e) Designate a supervisor to assure that staff providing adult day-care services are provided supervision; and
- (f) Notify a client's caregiver or representative should the service needs of the client change due to a change in the client's:
 - 1. Health;
 - 2. Support services; or
 - 3. Family.

(2) The private pay adult day-care center shall establish written policies and procedures to meet the following program requirements for adult day-care center and respite services:

- (a) Post the scheduled days and hours of operation in a conspicuous place and provide a written copy to the client and client's representative;
- (b) Supervise program activities which shall be provided by staff or volunteer personnel meeting staff requirements as set forth in Section 8 of this administrative regulation;
- (c) Provide a balance of planned individual and group activities to meet a client's needs, abilities, and interests as determined by the individual plan of care;
- (d) Provide an inventory of each client's interests and personal history;
- (e) Provide a client with a choice of activities and an opportunity to refuse to participate in the activity;
- (f) Post a monthly calendar of planned activities and available services in a conspicuous place and retain it on site for a minimum of two (2) years for certification purposes;
- (g) Provide assistance, if necessary, with activities of daily living, including:
 - 1. Walking; and
 - 2. Personal hygiene;
- (h) Provide assistance with self-administration of medication;
- (i) Provide a nutritionally-balanced meal if operating during meal time;
- (j) Offer a nutrient dense snack, water, and other liquids at regularly scheduled times during the day;
- (k)
 - 1. Post a monthly calendar of menus in a conspicuous place if meals are provided; and
 - 2. Maintain menus for certification purposes for a minimum of two (2) years;
- (l) Provide first aid and make appropriate arrangements for medical care with the client's physician or hospital for an accident or medical emergency;
- (m) Notify the family or other appropriate person listed in the client's record, such as power of attorney, guardian, or emergency contact, of any significant changes in the client's mental or physical condition;
- (n) Have written complaint procedures that shall:
 - 1. Include the address and phone number of the department;
 - 2. Be posted in a conspicuous place; and
 - 3. Be provided to each client; and
- (o) Have written procedures for reporting abuse, neglect, and exploitation consistent with KRS 209.030(2) and (3).

- (3) An adult day health center shall:
 - (a) Be monitored and licensed by the Office of the Inspector General; and
 - (b) Comply with licensure requirements for adult day health services in accordance with 902 KAR 20:066.

Section 7. Facility Requirements. A Private Pay Adult Day and Alzheimer's Respite Program provider operating a facility for service shall: (1) Comply with requirements outlined in 902 KAR 20:066 for a licensed adult day health center, if offering adult day health services;

(2) Locate, design, and furnish the private pay adult day-care center to be readily accessible to and usable by individuals with disabilities;

(3) Provide sufficient space and arrangements of furnishings to allow for:

- (a) Adequate client movement;
- (b) Program activities;
- (c) Food service; and
- (d) Socialization;

(4) Provide sufficient private office space to permit individual counseling and confidential maintenance of records;

(5) Provide appropriate lighting, heating, cooling and ventilation for client comfort and program activities;

(6) Provide covered leak-proof garbage disposal units for the kitchen;

(7) Equip each private pay adult day-care center with bathroom facilities meeting the following requirements:

(a) A minimum of one (1) toilet and one (1) sink for each ten (10) clients;

(b) Readily accessible and usable by individuals with disabilities;

(c) In men's bathrooms urinals may be substituted for up to one-half (1/2) the number of toilets required; and

(d) Bathroom facilities that shall:

1. Be cleaned and sanitized daily or more often, if needed which shall be documented by a cleaning log; and

2. Contain:

- a. Hot and cold running water;
- b. Mirror;
- c. Soap;
- d. Towels or electric hand dryers; and
- e. Leak-proof garbage disposal units that are emptied and cleaned daily;

(8) Comply with applicable local housing and health codes;

(9) Comply with zoning requirements;

(10) Obtain initial and annual inspection by state or local fire safety officials and comply with requirements;

(11) Maintain at least one (1) fully operational fire extinguisher with annually updated inspection tags;

(12) Maintain a fully equipped first aid kit, with unexpired contents, as recommended by the American Red Cross;

(13) Provide identifiable space during hours of operation, for a client in need of a more private environment or rest area; and

(14) Provide separate identifiable space during operational hours, if co-located in a facility housing other services.

Section 8. Program Staff. (1) Staffing requirements for a certified private pay adult day-care

center shall include:

- (a) Trained and experienced staff who shall be present each day of operation;
- (b) At least two (2) staff members at the private pay adult day-care center at times when there is more than one (1) client in attendance, one (1) of whom shall be a paid staff member;
- (c) Staffing ratios that shall be:
 - 1. One (1) staff member if one (1) client is in attendance;
 - 2. Two (2) staff members if two (2) to ten (10) clients are in attendance;
 - 3. Three (3) staff members if eleven (11) to fifteen (15) clients are in attendance; and
 - 4. One (1) additional staff member for each five (5) additional clients over fifteen (15);
- (d) Volunteer personnel may be included in the staff ratio, if volunteer personnel meet the staff qualifications and training requirements of this administrative regulation;
- (e) At least one (1) staff member who has completed cardiopulmonary resuscitation certification by the American Heart Association or American Red Cross present when clients are in attendance; and
- (f) A criminal records check that shall be obtained on a potential employee or volunteer prior to:

- 1. The employee's date of hire in accordance with KRS 216.787; or
- 2. Volunteer's start date.

(2) Staff qualifications for programs shall be as follows:

(a) 1. A program director of a private pay adult day-care center shall be:

a. A trained professional possessing:

(i) A minimum of a bachelor's degree in social work, nursing, or a related field relevant to geriatrics and one (1) year professional experience in working with the elderly; or

(ii) A master's degree in social work or a related field relevant to geriatrics and six (6) months professional experience working directly with the elderly;

b. A registered or practical nurse licensed in Kentucky with three (3) years professional experience working directly with the elderly while an employee of a:

(i) Home health agency;

(ii) Long-term care facility;

(iii) Public health agency; or

(iv) Social service agency; or

c. An individual at least twenty-one (21) years of age with:

(i) A high school diploma or GED certificate; and

(ii) A minimum of two (2) years of college with at least three (3) years of professional experience in working directly with the elderly.

2. Professional experience that includes working directly with the elderly while an employee of a public or private health or social service agency may substitute for professional education to equal a minimum of five (5) years.

(b) Administrators of licensed adult day health programs shall meet the requirements of 902 KAR 20:066.

(c) Staff responsible for assessing a participant shall:

1. Have a bachelor's degree or master's degree in social work, gerontology, psychology, sociology, or a field relevant to geriatrics, no experience required;

2. Have a bachelor's or master's degree in nursing with a current Kentucky nursing license, no experience required;

3. Have a bachelor's degree in a field not relevant to geriatrics with two (2) years of paid or volunteer experience in working with the elderly;

4. Be a Kentucky registered nurse with a current Kentucky license and two (2) years of experience working with the elderly; or

5. Be a licensed practical nurse with a current Kentucky license and three (3) years of paid or volunteer experience working with the elderly.

(3) Upon employment, a tuberculosis screening shall be conducted according to current center for Disease Control and Prevention standards and repeated annually thereafter.

(4) Staff or volunteer personnel who contract an infectious disease listed in 902 KAR 2:020 shall not appear at work until:

(a) The infectious disease can no longer be transmitted; and

(b) He or she provides a physician's statement authorizing a return to work.

(5) Training of staff shall be provided by a professional familiar with the subject matter as follows:

(a) Prior to assuming duties, paid and volunteer personnel shall receive a minimum of six (6) hours of orientation to the program and adult day-care center explained verbally and in writing to include:

1. Program objectives;

2. Program policies and procedures;

3. Health, sanitation, emergency, and safety codes and procedures;

4. Client confidentiality; and

5. Personnel policies and procedures.

(b) Within one (1) month of employment all staff shall be trained and certified in cardiopulmonary resuscitation.

(c) Within three (3) months of employment, staff shall be provided a minimum of thirty-four (34) hours of basic training that includes:

1. The aging process;

2. Interpersonal communications;

3. Personal care services;

4. First aid;

5. Identifying and reporting health problems;

6. Stress management;

7. Recognizing and reporting suspected adult abuse, neglect, or exploitation consistent with KRS 209.030(2) and (3);

8. Universal blood and body fluid precautions;

9. Dementia including:

a. Causes and manifestations of dementia; and

b. Managing a client with dementia;

10. Crisis intervention with a combative client; and

11. Effects of dementia on the caregiver.

(d) A minimum of eight (8) hours of annual training to review and update knowledge and skills shall be provided.

Section 9. Client Records. (1)(a) A client record shall be typed or legibly written in ink with each entry dated and signed by the recorder and including the recorder's title.

(b) Each client record shall be maintained at the program site and contain:

1. A completed assessment;

2. Client notification by letter of acceptance, fees, and the center's days and hours of operation;

3. A monthly summary of the client's:

a. Objectives and goals;

b. Progress; or

c. Other changes or observations noted by program staff;

4. Emergency contact information including responsible party and personal physician;
5. Signed authorization for client to receive emergency medical care, if necessary;
6. Ongoing reassessment and plan of care;
7. Correspondence; and
8. Termination summary.

(2) Licensed day care centers shall maintain records as required by 902 KAR 20:066.

(3) Confidentiality of records and reports shall be in accordance with KRS 194A.060(2).

(4)(a) If both private pay and publicly funded clients attend a center, the client records for the private pay clients shall be maintained in accordance with this administrative regulation.

(b) The records for the publicly funded clients shall be maintained in accordance with 910 KAR 1:160.

Section 10. Certification of Private Pay Adult Day-Care Centers. (1) A private pay adult day-care center shall be certified by the cabinet.

(2) An authorized representative of the department shall have the authority to inspect premises and records required by this administrative regulation and may request assistance from other state agencies upon receipt of a complaint.

(3) Application for certification shall be made by filing a DAIL-ADC-903, Application for Private Pay Adult Day-Care Center Certification, with the Cabinet for Health and Family Services, Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621.

(4)(a) Renewal of certification shall be made biennially.

(b) A renewal application shall be submitted sixty (60) days prior to the expiration date of the current certification.

(5)(a) Compliance with the health, safety, and treatment standards established in this administrative regulation shall be documented on a DAIL-ADC-904, Private Pay Adult Day-Care Center Certification Check List.

(b) Documented compliance shall be confirmed by unannounced inspection pursuant to KRS 205.955 conducted by the department.

(6)(a) Regulatory violations identified during inspection shall be transmitted in writing to the private pay adult day-care center:

1. Within fifteen (15) business days of the inspection; and

2. With a DAIL-ADC-905, Private Pay Adult Day-Care Center Statement of Noncompliance and Plan of Correction.

(b) The private pay adult day-care center shall submit a written plan for the elimination or correction of the regulatory violations to the reviewing agency within fifteen (15) business days of receiving the department's DAIL-ADC-905, Private Pay Adult Day-Care Center Statement of Noncompliance and Plan of Correction.

1. The plan shall specify the dates by which each of the violations shall be corrected.

2. The department shall review the plan and within fifteen (15) days of receipt of the plan of correction:

- a. Notify the private pay adult day-care center whether the plan is acceptable or not, in writing;

- b. If acceptable, issue a certificate certifying the adult day-care center for a two (2) year period; and

- c. If unacceptable, specify the reasons.

3. If the department notifies the adult day-care center that the plan is unacceptable, the center shall amend the plan of correction and resubmit it within fifteen (15) business days.

(7) If the department determines after reviewing the amended plan of correction that certifi-

cation shall be denied, the department shall, within ten (10) business days of the determination:

- (a) Notify the private pay adult day-care center of the determination;
- (b) Notify the private pay adult day-care center of the opportunity for an informal dispute resolution meeting between the department and a representative of the private pay adult day-care center to be held within fifteen (15) days of the private adult day-care center's receipt of the notice;
- (c) Provide the center with any supporting documentation or materials regarding an issue of noncompliance; and
- (d) Notify the private pay adult day-care center of its appeal rights in accordance with Section 11 of this administrative regulation.

Section 11. Appeal Procedures. (1) If certification of a private pay adult day-care center has been denied or revoked, the applicant shall be notified in writing of the right to appeal. The department shall send the notice by certified mail within ten (10) days of the determination.

(2) To request an administrative hearing, an applicant shall send a written request to the department within thirty (30) days, pursuant to KRS 205.950, after receipt of the notice.

(3) The denial or revocation of certification shall be effective upon the final decision of the secretary pursuant to KRS 13B.120.

(4)(a) If the denial or revocation is upheld by the secretary, the commissioner of the department or representative shall specify the date by which the private pay adult day-care center shall close.

(b) The center shall be notified in writing in accordance with KRS 13B.120(5).

(5) A private pay adult day-care center may appeal a final decision to the circuit court within thirty (30) days after the final order is mailed or delivered, in accordance with KRS 13B.140(1).

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DAIL-ADC-903, Application for Private Pay Adult Day-Care Center Certification", edition 2/10;

(b) "DAIL-ADC-904, Private Pay Adult Day-Care Center Certification Checklist", edition 2/10; and

(c) "DAIL-ADC-905, Private Pay Adult Day-Care Center Statement of Noncompliance and Plan of Correction, edition 2/10.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (36 Ky.R. 1408; Am. 1932; eff. 3-5-2010.)